

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19650
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On June 29, 2006, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income taxes, penalties, and interest for the taxable years 2001 through 2004 in the total amount of \$16,240.

On August 31, 2006, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission's hearing rights letter and has provided nothing further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information that the taxpayer was required to file Idaho individual income tax returns. The Bureau researched the Tax Commission's records and found that the taxpayer had not filed Idaho income tax returns. The Bureau sent the taxpayer a letter asking about his requirement to file Idaho individual income tax returns. The taxpayer responded that he was required to file returns for 2004 and 2005 but he was not required to file returns for 1999 through 2002. The taxpayer stated he worked in [Redacted], [Redacted], and [Redacted] from June 1999 to June 2003.

The Bureau obtained additional information from [Redacted] the [Redacted] County Assessor, the Department of Motor Vehicles, and CitiFinancial Auto. The Bureau determined the taxpayer did have a filing requirement for the years 2000 through 2004. The Bureau

prepared individual income tax returns for the taxpayer and sent him a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination. The taxpayer stated that in some of the years in question he was away from Idaho for 9 to 14 months at a time. Again he stated he worked in [Redacted] in 2000, 2001, 2002, and 2003, respectively. The taxpayer stated he was a single parent of two young boys neither of which attended school in Idaho until 2004. He stated he had a house in Idaho, and it was never rented.

The Bureau referred the matter for administrative review. The Tax Commission sent the taxpayer a letter discussing the methods available for redetermining the Notice of Deficiency Determination. The taxpayer did not respond. The Tax Commission sent a follow-up letter to the taxpayer but still received no response. Therefore, the Tax Commission decided the matter based upon the information available.

The Bureau received information that the taxpayer may not have filed Idaho individual income tax returns for several years. The Bureau found that there was no record of the taxpayer filing Idaho income tax returns. The taxpayer stated he was not required to file Idaho returns for 1999 through 2002 because he was working in other states. He stated he was away from Idaho for 9 to 14 months at a time. The taxpayer stated that he was in [Redacted] from June 1, 1999, to December 9, 2000, and from June 15, 2000, to May 25, 2001; in [Redacted] from January 7, 2002, to September 12, 2002; and in Arizona from October 20, 2002, to June 1, 2003.

The Bureau found that the taxpayer owned property in Idaho and that he claimed the homeowner's exemption beginning in 1991. The taxpayer acquired Idaho driver's licenses in 1994, 2000, and 2005. The taxpayer also purchased an Idaho fish and game license in 2005 stating that he had lived in Idaho since October 1984. The Bureau determined from this

information that the taxpayer was domiciled in Idaho and, therefore, was required to file Idaho individual income tax returns.

The Bureau used information the taxpayer provided a lending institution to determine his income. The taxpayer did not file federal income tax returns for the years in question and he provided no evidence that he filed income tax returns in [Redacted].

In Idaho, it is well established that a Tax Commission's deficiency notice is presumed correct and the taxpayer bears the burden of showing that it is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986); Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). The taxpayer has not met his burden.

The information available to the Tax Commission points to the taxpayer being a resident of and domiciled in Idaho. Yet from the taxpayer's statements, there is a period in which he could possibly qualify for the safe harbor provisions of Idaho Code section 63-3013. However, the taxpayer did not provide any information to make that determination. Nevertheless, the information available supports the conclusion that the taxpayer was likely domiciled in Idaho and therefore required to file Idaho income tax returns. As a result, the Tax Commission upholds the Bureau's determination that the taxpayer was required to file Idaho income tax returns.

The determination of the taxpayer's taxable income came from a loan application the taxpayer applied for in December 2000. The taxpayer stated his monthly income was \$4,000. Since the taxpayer did not file federal income tax returns and did not provide income tax returns from any other state, the Tax Commission finds that the loan application statement is the most accurate means of determining the taxpayer's income. Therefore, the Tax Commission upholds the Bureau's determination of the taxpayer's Idaho taxable income.

The Bureau added interest and penalty to the taxpayer's Idaho tax. The Tax Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046, respectively.

WHEREFORE, the Notice of Deficiency Determination dated June 29, 2006, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2001	\$2,886	\$722	\$950	\$ 4,558
2002	2,859	715	758	4,332
2003	2,847	712	604	4,163
2004	2,829	707	430	<u>3,966</u>
			TOTAL DUE	<u>\$17,019</u>

Interest is computed to September 15, 2007.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of taxpayer's right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this ____ day of _____, 2007, served a copy of the within and foregoing decision by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.
